



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2149-00

25 August 2000

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Geisler, Morgan, and Frankfurt, reviewed Petitioner's allegations of error and injustice on 23 August 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 18 January 1994 for four years as an SN (E-3). The record reflects that during recruit training from 14 February through 10 April 1994, Petitioner failed the run portion of the physical training test

on ten occasions. On 20 April 1994 discharge was recommended since he could not meet the minimum requirements for physical training.

d. On 25 April 1994 Petitioner was notified that administrative separation was being considered by reason of convenience of the government due to failure of the physical readiness test. He was advised of his procedural rights, but waived them. Thereafter, the discharge authority directed an entry level separation due to physical readiness test failure. On 3 May 1994, Petitioner received an uncharacterized entry level separation by reason of "Physical Standards" and was assigned an RE-4 reenlistment code.

e. Regulations authorize the assignment of an RE-3F or RE-4 reenlistment code to individuals who are separated due to failure to pass physical standards. An RE-4 reenlistment code means the individual is ineligible for reenlistment without prior approval from Commander, Navy Personnel Command. An RE-3F code may be waived by recruiting officials if Petitioner can show he can not pass the physical readiness test.

f. Petitioner provides evidence that on 13 January 2000 he passed a physical readiness test administered by the Navy Recruiting District, San Diego.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner had no discipline or performance problems in recruit training other than his failure to pass the physical training test. Accordingly, the Board believes that assignment of the most restrictive RE-4 reenlistment code was unduly harsh, and he should not be restricted from further service if he can now meet minimum physical training requirements. The Board concludes that it would be appropriate and just to change his reenlistment code to RE-3F.

RECOMMENDATION:

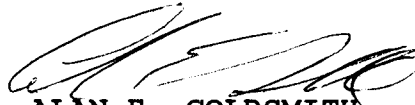
a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 3 May 1994, to RE-3F.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER
Executive Director